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11-4372

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Noted by D/DCI
CFC/bm 5/23

22 MAY 1959

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MEMORANDUM FOR THE RECORD

SUBJECT: Latest Developments in the Abel Case

1. The following information was given me by Mr. James B. Donovan, court appointed counsel for Rudolph Abel.
2. Shortly after Mr. Donovan was appointed to represent Abel in the prosecution for conspiracy to commit espionage, he was asked by Abel to take custody of his personal belongings. Mr. Donovan had all the belongings that were not retained by the Government for purposes of the trial placed in a warehouse.
3. Sometime during 1958, Abel asked Mr. Donovan to ship his belongings to his wife in East Germany. Concerned lest the belongings contained something of interest to the Federal Government, Mr. Donovan sought guidance by writing to the Acting Head of the Internal Security Division, Department of Justice. Eventually he received a letter from the Department stating it had no objection to dispatch of Abel's personal belongings to his wife.
4. The personal belongings that had been seized at the time of the initial contact with Abel at the Latham Hotel had been retained by the Immigration and Naturalization Service. Those items which had not been used during the trial were turned over by the Immigration and Naturalization Service last Wednesday or Thursday to Mr. Donovan at his office in New York for shipment with the other goods. The FBI had already investigated personal belongings warehoused by Mr. Donovan at Abel's request, and Mr. Donovan, therefore, asked the FBI agent with whom he was in contact in New York to survey the material delivered by the Immigration and Naturalization Service.
5. Two Bureau agents came to Mr. Donovan's office at 4:00 p.m., Friday, 15 May. An associate of Mr. Donovan's had

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suggested that Mr. Donovan might open the packages for the convenience of the Bureau agents, but Mr. Donovan decided to leave them untouched and let the Bureau agents open them in his presence. There were apparently packets of papers with some handwriting, presumably Abel's, together with a brief case, all packed together. A Bureau agent opened some of the handwritten material and said the Bureau would probably be interested in checking on it. He then opened the brief case and in the brief case found a roll of exposed film and a wallet. The Bureau agent opened the wallet and rather casually, according to Mr. Donovan, thrust a finger into a small interior compartment and pulled out a folded paper which had what appeared to be cipher material on it and inside the paper a micro-film which appeared to have a censored message. Mr. Donovan said the Bureau agent seemed obviously agitated and at a loss as to what to do. Mr. Donovan thereupon dictated a memorandum for the record of the events leading up to finding this material.

6. Subsequently, Mr. Donovan notified by telephone Mr. William F. Tompkins, Special Assistant to the Attorney General; Mr. Cornelius W. Wickersham, Jr., U. S. Attorney for the Eastern District of New York; and the undersigned. Bureau agents queried whether they had any right to take into their possession material which had been delivered by the Immigration and Naturalization Service, but eventually took the material with them and it is now in the Bureau's possession.

7. On Monday, 18 May, Mr. Donovan saw Abel at the Federal penitentiary at Atlanta, Georgia. When told of the discovery of the papers and the Friday meeting, Mr. Donovan said Abel appeared to be visibly shaken and, in effect, admitted to being shaken in those words. Abel said that to the best of his recollection there were no such materials in the wallet. He speculated whether this could be some sort of a plant to discredit his defense counsel, but Mr. Donovan said he dissuaded Abel of this thought.

8. Mr. Donevan is still very much concerned about his position in relation to Abel's personal property, which may or may not have further information concealed somewhere. He plans to complete his memorandum for the record of these recent events and then to visit Judge Abruzzi, who appointed him as defense counsel, to see if the Judge agrees that the safekeeping and transmission of personal property is outside of Mr. Donevan's technical responsibility as defense counsel. If so, he plans to write a letter

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to the Department of Justice, Internal Security Division, pointing out that the handling of these goods is not his responsibility as defense counsel and that the recent events and discovery of additional papers make the problem of this property a matter outside the competence of a private citizen and of immediate interest to the Federal Government. He plans to say, therefore, that he can take no further responsibility for this property or its dispatch to Abel's wife. He will send us copies of his memorandum and any letters he writes on this subject.

9. Of collateral interest, Mr. Donovan states that Abel raised the question of release on bail since the Supreme Court's order for reargument indicated substantial doubt. Mr. Donovan said he has convinced Abel that bail is not advisable for a variety of reasons. Abel pointed out that one of the Government's arguments before the Supreme Court was that at the time of his original arrest Immigration and Naturalization worked independently and for its own reasons and the Bureau came in only afterwards. This was very definitely stressed by the Solicitor General. Abel claims, however, that in Mr. J. Edgar Hoover's recent book, Masters of Deceit, the author states that Immigration and Naturalization Service at this original interview and arrest acted on the instance of the FBI at its request. Mr. Donovan also said that Abel told him that in the FBI's guided tour of exhibits on famous crimes there was a section on the Abel case, and he asked Mr. Donovan to observe it, which Mr. Donovan did as a private tourist on the morning of 19 May.

S/ Lawrence R. Houston

LAWRENCE R. HOUSTON
General Counsel

OGC:LRH:jeb

Ofc - DCI

1cc-DDCI

1cc-Asst to DCI (Col. Grogan)

1cc-C/CI

1cc-Director of Security

2cc-General Counsel

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MEMORANDUM FOR: THE DIRECTOR

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The attached memorandum is an account obtained from Jim Donovan of recent developments in the Abel case, including the discovery of what appears to be new material. Abel asked Mr. Donovan to view the exhibit of the Abel case which is part of the FBI's guided tour of famous crimes. The attached cartridge was given to the participants in the tour as a souvenir, and Jim passes it on to you as a memento.

S/ Lawrence R. Houston
LAWRENCE R. HOUSTON 22 MAY 1959
General Counsel (DATE)

FORM NO. 101 REPLACES FORM 10-101
1 AUG 54 WHICH MAY BE USED.

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